

House Study Bill 584 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act providing for notice of garnishment and levy to a
2 judgment debtor.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 642.14, Code 2014, is amended to read as
2 follows:

3 **642.14 Notice.**

4 Judgment against the garnishee shall not be entered until
5 the ~~principal~~ defendant in the main action has had ten days'
6 notice of the garnishment proceedings, to be served in the same
7 manner as original notices. However, if the garnishment is to
8 earnings owed ~~the~~ such defendant by the garnishee, judgment
9 may be entered if notice to the defendant is served with the
10 notice of garnishment to the garnishee who shall deliver the
11 notice to the defendant with the remainder of or in lieu of the
12 defendant's earnings. The garnishee shall state in answer to
13 the service of notice of garnishment whether or not service of
14 notice was delivered to the defendant.

15 The notice required by this section shall contain the full
16 text of section 630.3A.

17 Sec. 2. NEW SECTION. **642.14A Notice of garnishment and**
18 **levy.**

19 1. Whenever execution is served upon a garnishee, the
20 sheriff shall send a notice of garnishment and levy to the
21 defendant in the main action informing the defendant that
22 certain real and personal property of the defendant may be
23 exempt from execution or garnishment and that a hearing process
24 is available for the defendant to claim such exemptions.

25 2. The notice required by this section shall be sent by
26 restricted certified mail to the last known address of the
27 defendant and to the defendant's attorney. Proof of mailing
28 shall be by affidavit.

29 3. The notice required by this section shall:

30 a. Inform the defendant that judgment has been entered in
31 the garnishment proceedings and the defendant's funds or other
32 property is subject to execution under the judgment.

33 b. Inform the defendant that the defendant has the right
34 to claim funds or other property exempt from execution or
35 garnishment and a right to be timely heard on those claims.

c. Inform the defendant that if the defendant does not file a motion or other appropriate pleading to claim funds or other property exempt from execution or garnishment under state or federal law, the defendant may lose any such rights and the funds or other property may be applied to the judgment against the defendant.

7 d. Inform the defendant that state and federal laws may
8 place limits on the amount of earnings that may be garnished
9 annually and per pay period and limits on other funds and
10 property that may be garnished or levied against.

11 e. Contain the full text of section 630.3A.

12 *f.* State that the defendant may wish to consult a lawyer for
13 advice as to the meaning of the notice.

14 4. An additional filing fee shall not be assessed for
15 proceedings under this section.

16	EXPLANATION
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17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill provides that notice of garnishment and levy be
20 sent to a judgment debtor.

21 The bill provides that whenever execution is served upon
22 a garnishee, the sheriff shall send a notice of garnishment
23 and levy to the defendant in the main action (also known as
24 the judgment debtor) informing the defendant that certain real
25 and personal property and wages of the defendant may be exempt
26 from execution or garnishment and that a hearing process is
27 available for the defendant to claim such exemptions. The
28 bill specifies that the notice be sent by restricted certified
29 mail to the last known address of the defendant and to the
30 defendant's attorney. The bill specifies the contents of the
31 notice, including that the notice include the full text of Code
32 section 630.3A, relating to the hearing procedure to determine
33 a defendant's income.